

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MAURICE MOORE,

Plaintiff,

Case No. 12-cv-14783

Hon. Matthew F. Leitman

v.

CARMEN PALMER *et al.*,

Defendants.

ORDER DENYING MOTION TO COMPEL (ECF #129)

Plaintiff Maurice Moore (“Moore”) is a former inmate of the Michigan Department of Corrections (“MDOC”). On October 29, 2012, Moore filed this action in which he asserted that MDOC employees at three facilities -- Marquette Branch Prison, Michigan Reformatory, and G. Robert Cotton Correctional Facility - - violated his constitutional rights while he was incarcerated. (*See* Compl., ECF #1.) On November 16, 2017, Moore filed a motion to compel discovery against Defendants. (*See* Motion, ECF #129.) Moore specifically “seek[s] the production of (9) specific photographs in their original color format.” (*Id.* at Pg. ID 1224.)

The Defendants filed a response to the motion to compel and attached affidavits from employees at the three correctional facilities in question – Marquette Branch Prison, Michigan Reformatory, and G. Robert Cotton Correctional Facility. (*See* ECF #135; Aff. of Aaron Vroman (“Vroman Aff.”), ECF #135-2; Aff. of Jerry

Hoult (“Hoult Aff.”), ECF #135-3; Aff. of Kimberly Napier (“Napier Aff.”), ECF #135-4.) In each affidavit, the employee swears under oath that his facility does not have color versions of the photos identified by Moore. (*See* Vroman Aff. at ¶3, ECF #135-2 at Pg. ID 1449 (“After conducting a review of the indicated critical incident report, I have determined that there are no color photographs attached to that report.”); Hoult Aff. at ¶3, ECF #135-3 at Pg. ID 1453 (same); Napier Aff. at ¶3, ECF #135-4 at Pg. ID 1457 (same).) Moore has not presented any evidence calling the affidavits into question or indicating that the requested color photographs do, in fact, exist.

IT IS HEREBY ORDERED that Moore’s motion to compel (ECF #129) is **DENIED** because the nine photographs in their original color format do not exist and therefore cannot be produced.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: January 24, 2018

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on January 24, 2018, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
(810) 341-9764